

Attachment 1

Attachment 1: Curriculum vitae of Eric M. Gaier, Ph.D.

Summary of experience

Dr. Eric M. Gaier is a Partner and founding member of Bates White, LLC. Dr. Gaier has significant experience in the application of economic and statistical analysis to antitrust and other economic and financial issues. He specializes in analysis of class certification and alleged anticompetitive conduct including market definition, market power, competitive impact, countervailing efficiencies, and damages.

Dr. Gaier has testified and consulted for government, law firm, and corporate clients across a variety of industries including retail sales, agriculture, pharmaceuticals, healthcare, medical equipment, technology, transportation, commercial aviation, aerospace manufacturing, and defense procurement.

Areas of expertise

- Antitrust litigation
- Class certification
- Economic and statistical analysis
- Econometric and microsimulation modeling
- Cost-benefit analysis

Selected experience

- In *Static Control Components, Inc. et al. v. Lexmark International, Inc.*, serving as the testifying expert on market definition, market power, and competitive impact for a printer systems manufacturer defending allegations of monopolization and attempted monopolization of an alleged aftermarket in toner cartridges.
- In *re: Pharmaceutical Industry Average Wholesale Price Litigation*, serving as the testifying expert on issues of common impact, feasible damage methodologies, and merits on behalf of a joint defense group of leading pharmaceutical manufacturers in a civil fraud matter.
- In *Robert J. Swanston v. TAP Pharmaceutical Products, Inc. et al.*, serving as the testifying expert on issues of common impact and feasible damage methodologies on behalf of a joint defense group of leading pharmaceutical manufacturers opposing class certification.
- In *District of Columbia v. CVS Corporation, et al.*, served as the testifying expert on market definition, market power, and competitive impact on behalf of District of Columbia challenging the acquisition of a local pharmacy chain by CVS Corporation.
- In *Augustine Medical, Inc. v. Mallinckrodt, Inc. et al.*, served as the testifying expert on market definition, market power, competitive impact, and damages on behalf of Augustine Medical, Inc. defending an illegal monopolization counterclaim.

- In *Confre Cellars, Inc. v. Scott Robinson, et al.*, served as the testifying expert on market definition, market power, and competitive impact on behalf of an alcoholic beverage producer involved in a concerted refusal-to-deal litigation with its distributors.
- Led expert analysis for a top-tier academic expert working on behalf of a proposed class of medical residents alleging anticompetitive conduct in the determination of wages and working conditions. Led analysis of class certification issues and developed appropriate damage methodologies.
- Directed economic and statistical analysis for a top-tier academic expert working on behalf of a proposed class of agricultural producers involved in price-fixing litigation under multiple state indirect-purchaser statutes. Developed economic and statistical analysis of class certification issues and assessed degree of upstream pass-through and damages.
- Directed economic and statistical analysis of damages to support a top-tier academic expert working on behalf of a large coalition of direct-action and class plaintiffs involved in a large and complex price-fixing matter in the vitamins industry.
- Served as a consulting expert for a group of direct-action plaintiffs in a large price-fixing litigation involving suppliers to the steel manufacturing industry.
- Served as consulting expert for a large rail-transportation defendant in an asbestos-related insurance dispute regarding employer liability. Responsible for developing a litigation risk-assessment model and evaluating the appropriateness of previous settlements.
- Managed expert analysis to support a large asbestos-product manufacturing defendant in a high-profile fraudulent conveyance matter. Responsible for directing forecasts of future asbestos liability and analysis of product identification trends.
- Conducted statistical and economic analysis on behalf of a major retail sales defendant involved in a tax dispute with the Internal Revenue Service (IRS). Developed models to assess the duration of benefits from store credit cards.
- Developed critical components of an extensive cost-benefit model to support the sales force of a large medical-equipment manufacturing corporation. Responsible for developing algorithms to determine the optimal mix of equipment and personnel for hospital administrators.

Prior testimony

- *Static Control Components, Inc. et al. v. Lexmark International, Inc.*, U.S. District Court for the Eastern District of Kentucky (Expert Declarations: August 2006).
- *Robert J. Swanston v. TAP Pharmaceutical Products, Inc. et al.* Superior Court for the State of Arizona in and for the County of Maricopa (Expert Declaration: February, 2005).
- *In re: Pharmaceutical Industry Average Wholesale Price Litigation*, U.S. District Court for District of Massachusetts (Expert Declaration: October 2004, Deposition: November 2004, Expert Declaration: January 2005).

- *District of Columbia v. CVS Corporation, et al.*, Superior Court of the District of Columbia Civil Division (Expert Report: May 2004, Deposition: May 2004, June 2004).
- *Confre Cellars, Inc. v. Scott Robinson, et al.*, U.S. District Court for the District of Colorado (Expert Report: September 2002, Deposition: January 2003).
- *Augustine Medical, Inc. v. Mallinckrodt, Inc. et al.*, U.S. District Court for the District of Delaware (Expert Report: December 2002, Deposition: January 2003, Declaration: February 2003).

Professional experience

Prior to joining Bates White, Dr. Gaier served as an Associate of A.T. Kearney. Previously he was a Research Fellow for the Technology Assessment Program, of the Logistics Management Institute. Dr. Gaier has served as a Consultant to the Panel on Statistical Methods for Evaluating Defense Systems of the National Research Council and as an Instructor with the Department of Economics at Duke University.

Education

- Ph.D., Economics, Duke University
- M.A., Economics, Duke University
- B.A., Economics, Florida State University

Publications

- “Forecasting and Economic Analysis for Aviation Systems Engineering,” (with Peter F. Kostiuk), in *Air Transportation Systems Engineering*, Progress in Astronautics and Aeronautics Series, Volume 193, George L. Donohue, Andres G. Zellweger, Herman Rediess, and Christian Pusch, eds. Lexington, MA: American Institute of Aeronautics and Astronautics, 2001.
- “Strategic Information Generation and Transmission: The Evolution of Institutions in Department of Defense Operational Testing,” (with Robert C. Marshall), in *Statistics Testing, and Defense Acquisition—Background Papers*, Michael Cohen, Duane L. Steffey, and John E. Rolph, eds., Washington D.C.: National Academy Press, 1999.
- “The Economic Impacts of Air Traffic Congestion,” (with Peter F. Kostiuk and Dou Long) *Air Traffic Control Quarterly*, pp. 123–145, Volume 7, Number 2 1999.
- *The ASAC Air Carrier Investment Model: Third Generation* (with Earl R. Wingrove, Jesse P. Johnson, and Tara E. Santmire) NASA Contractor Report 1998-207656, April 1998.
- *The ASAC Air Carrier Cost-Benefit Model* (with Tara E. Santmire, Alexander P. Edlich, and Earl R. Wingrove), NASA Contractor Report 1999–208983, January 1999.

- *A Method for Forecasting the Commercial Air Traffic Schedule in the Future* (with Dou Long, David A. Lee, Jesse P. Johnson and Peter F. Kostiuk), NASA Contractor Report 1999-208987, January 1999.
- *Modeling Air Traffic Management Technologies With a Queuing Network Model of the National Airspace System* (with Dou Long, David A. Lee, Jesse Johnson, and Peter F. Kostiuk), NASA Contractor Report 1999-208988, January 1999.

Professional associations

- American Economic Association
- American Bar Association (Associate Member)
- International Health Economics Association